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5 Menlo Park, CA 94025
6 Telephone: 650.645.9000
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8 Attorney for Proposed Intervenor
9 and Counter-Claimant
10 AUTOMATTIC INC.

11 UNITED STATES DISTRICT COURT

12 FOR THE NORTHERN DISTRICT OF CALIFORNIA

13 SAN JOSE DIVISION

14 11 THERMOLIFE INTERNATIONAL, LLC, an
15 Arizona limited liability company,

16 12 Plaintiff,

17 14 v.

18 15 https://ronkramermusclebeach.wordpress.com/, an
16 Internet domain name;
17 https://ronkramermusclebeach.wordpress.com/auth
18 or musclebeachkramer/, an Internet domain name,

19 17 Defendants.

20 Case No. CV15-01616 HRL

21 **DECLARATION OF MELINDA M.**
MORTON IN SUPPORT OF
AUTOMATTIC INC.'S MOTION TO
INTERVENE

22 Date: June 2, 2015

23 Time: 10:00 am

24 Judge: Magistrate Judge Howard R. Lloyd
Ctrm: 2, 5th Fl.

25 Complaint filed: April 8, 2015

26 Trial date: none set

1 I, Melinda M. Morton, declare:

2 1. I am an attorney duly licensed to practice law in the State of California, with the law
 3 firm of Procopio, Cory, Hargreaves & Savitch LLP, counsel for proposed Intervenor Automattic
 4 Inc. in the above-captioned action. The following statements are based on my own personal
 5 knowledge, with the exception of those matters stated on information and belief, and if called as a
 6 witness, I could and would competently testify thereto.

7 2. Attached hereto as Exhibit A is a true and correct copy of Automattic's proposed
 8 Answer and Counterclaim in Intervention.

9 3. Attached hereto as Exhibit B is a true and correct copy of the ICANN whois report
 10 on www.ronkramermusclebeach.wordpress.com found at
 11 <http://whois.icann.org/en/lookup?name=ronkramermusclebeach.wordpress.com> on April 28, 2015.
 12 The whois system was unable to find information for www.ronkramermusclebeach.wordpress.com
 13 and instead shows the information for www.wordpress.com.

14 4. Attached hereto as Exhibit C is a true and correct copy of the blog found at
 15 www.ronkramermusclebeach.wordpress.com on April 28, 2015.

16 5. Automattic received a subpoena from Thermolife seeking information about the
 17 user who authored www.ronkramermusclebeach.wordpress.com in 2014. The subpoena was issued
 18 by ThermoLife from a John Doe lawsuit in Arizona that was filed on September 3, 2014.

19 6. In response to the subpoena, Automattic provided an email address and an IP
 20 address to ThermoLife. In December 2014, ThermoLife's counsel contacted me and threatened to
 21 bring a lawsuit for copyright infringement, trademark infringement, and violation of Automattic's
 22 Terms of Service if Automattic did not remove the blog at
 23 www.ronkramermusclebeach.wordpress.com. Automattic did not remove the blog.

24 7. I reviewed the docket for the Arizona lawsuit on April 28, 2015, and on information
 25 and belief, the lawsuit is ongoing.

26 8. ThermoLife notified Automattic and the wordpress.com registrar, Mark Monitor,
 27 Inc., by letter dated March 10, 2015, that it intended to file an *in rem* complaint. A true and correct

1 copy of the letter and proposed complaint are attached hereto as Exhibit D.

2 9. I responded to ThermoLife on March 16, 2015, citing case law and legislative
3 history and suggesting that ThermoLife refrain from filing the complaint.

4 10. On April 8, 2015, ThermoLife filed the complaint in this action. Automatic has not
5 been served with the complaint or otherwise notified that the complaint was filed as of April 28,
6 2015.

7 11. Attached hereto as Exhibit E is a true and correct copy of the website found at
8 <https://en.support.wordpress.com/disputes/legal-guidelines/>.

9 I declare under penalty of perjury under the laws of the United States that the foregoing is
10 true and correct.

11 Executed this 28th day of April, 2015, in Menlo Park, California.

12 /s/ Melinda M. Morton
13 Melinda M. Morton

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EXHIBIT A

1 MELINDA M. MORTON, SBN 209373
2 mindy.morton@procopio.com
3 PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
4 1020 Marsh Road, Suite 200
5 Menlo Park, CA 94025
6 Telephone: 650.645.9000
7 Facsimile: 619.235.0398

5 Attorney for Intervenor and Counter-Claimant
AUTOMATTIC INC.

6

7

8

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

11 THERMOLIFE INTERNATIONAL, LLC, an
Arizona limited liability company,

Plaintiff and Counter-Defendant.

14

15 <https://ronkramermusclebeach.wordpress.com/>, an Internet domain name;
16 <https://ronkramermusclebeach.wordpress.com/auth> or musclebeachkramer/, an Internet domain name,

Defendants.

Case No. CV15-01616 HRL

AUTOMATTIC INC.'S [PROPOSED] ANSWER AND COUNTERCLAIM IN INTERVENTION

Judge: Magistrate Judge Howard R. Lloyd
Ctrm: 2, 5th Fl.

Complaint filed: April 8, 2015
Trial date: none set

19 AUTOMATTIC INC.

Intervenor and Counter-Claimant.

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Intervenor and Counter-Claimant Automattic Inc. (“Automattic”), answers the Complaint of ThermoLife International, LLC (“Plaintiff”) and Counterclaims as follows:

NATURE OF CASE

1. Automattic specifically denies that <https://ronkramermusclebeach.wordpress.com/> and <https://ronkramermusclebeach.wordpress.com/author/musclebeachkramer> (collectively, the “Muscle Beach domains”) are actionable domain names under the Anti-Cybersquatting Consumer Protection Act (“ACPA”). Automattic lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of the Complaint and therefore denies those allegations.

2. Automattic denies that Plaintiff states a claim under the ACPA, denies that Muscle Beach domains are registered in their entirety, and denies that preliminary or permanent injunctive relief is appropriate. Automattic denies the remaining allegations and/or legal conclusions in Paragraph 2 of the Complaint.

JURISDICTION AND VENUE

3. Automattic admits that this action purports to arise under 15 U.S.C. § 1125(d). Automattic further admits that this court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. Automattic denies that the Court has *in rem* jurisdiction over the Muscle Beach domains. Automattic admits that Plaintiff accurately quoted 15 U.S.C. § 1125(d). Automattic denies the remaining allegations and/or legal conclusions in Paragraph 4 of the Complaint.

5. Automattic lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 of the Complaint and therefore denies those allegations.

6. Automattic admits that Plaintiff filed a civil action in Arizona against John Doe, and that Plaintiff served Automattic with a subpoena seeking documents identifying the author of the Muscle Beach domains. Automattic further admits that in response to the subpoena, it supplied an email address, becausescience@anonymousspeech.com, and an IP address. Automattic lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 6 of the Complaint and therefore denies those allegations.

1 7. Automattic admits that Plaintiff served Automattic with notice of intent to file the
 2 Complaint before filing this action, and that the notice was provided by email and mail to
 3 Automattic's counsel. Automattic lacks knowledge or information sufficient to form a belief as to
 4 the truth of the remaining allegations contained in Paragraph 7 of the Complaint and therefore
 5 denies those allegations.

6 8. Automattic admits that in response to Plaintiff's notice of intent to file, Automattic's
 7 counsel informed Plaintiff that third-level domains are not considered "domain names" under the
 8 ACPA, as they are not registered, and further stated that this action was not appropriate.
 9 Automattic lacks knowledge or information sufficient to form a belief as to the truth of the
 10 remaining allegations contained in Paragraph 8 of the Complaint and therefore denies those
 11 allegations.

12 9. Automattic admits that it contends that third-level domains are not registered and
 13 are not considered "domain names" under the ACPA. Automattic denies the remaining allegations
 14 contained in Paragraph 9 of the Complaint.

15 10. Automattic specifically denies that it acts as "a domain name authority" pursuant to
 16 15 U.S.C. § 1125 (d) and further denies that this action is appropriately brought *in rem* against the
 17 Muscle Beach domains. Automattic denies the remaining allegations contained in Paragraph 10 of
 18 the Complaint.

19 11. Automattic admits that Mark Monitor, Inc. is located in San Francisco, California.
 20 Automattic denies the remaining allegations contained in Paragraph 11 of the Complaint.

21 FACTUAL ALLEGATIONS

22 12. Automattic lacks knowledge or information sufficient to form a belief as to the truth
 23 of the allegations contained in Paragraph 12 of the Complaint and therefore denies those
 24 allegations.

25 13. Automattic lacks knowledge or information sufficient to form a belief as to the truth
 26 of the allegations contained in Paragraph 13 of the Complaint and therefore denies those
 27 allegations.

28 14. Automattic lacks knowledge or information sufficient to form a belief as to the truth

1 of the allegations contained in Paragraph 14 of the Complaint and therefore denies those
2 allegations.

3 15. Automattic lacks knowledge or information sufficient to form a belief as to the truth
4 of the allegations contained in Paragraph 15 of the Complaint and therefore denies those
5 allegations.

6 16. Automattic lacks knowledge or information sufficient to form a belief as to the truth
7 of the allegations contained in Paragraph 16 of the Complaint and therefore denies those
8 allegations.

9 17. Automattic lacks knowledge or information sufficient to form a belief as to the truth
10 of the allegations contained in Paragraph 17 of the Complaint and therefore denies those
11 allegations.

12 18. Automattic lacks knowledge or information sufficient to form a belief as to the truth
13 of the allegations contained in Paragraph 18 of the Complaint and therefore denies those
14 allegations.

15 19. Automattic lacks knowledge or information sufficient to form a belief as to the truth
16 of the allegations contained in Paragraph 19 of the Complaint and therefore denies those
17 allegations.

18 20. Automattic lacks knowledge or information sufficient to form a belief as to the truth
19 of the allegations contained in Paragraph 20 of the Complaint and therefore denies those
20 allegations.

21 21. Automattic lacks knowledge or information sufficient to form a belief as to the truth
22 of the allegations contained in Paragraph 21 of the Complaint and therefore denies those
23 allegations.

24 22. Automattic lacks knowledge or information sufficient to form a belief as to the truth
25 of the allegations contained in Paragraph 22 of the Complaint and therefore denies those
26 allegations.

27 23. Automattic admits that it owns and operates WordPress.com, and that the Muscle
28 Beach domains are hosted on WordPress.com. Automattic admits that <https://wordpress.com/>

1 states that “We’ll set up and configure your custom domain so that you can start using it in
2 seconds.” Automattic specifically denies that “custom domain” has the same meaning as “domain
3 name” under the ACPA. Automattic denies the remaining allegations contained in Paragraph 23 of
4 the Complaint.

5 24. Automattic admits that users are allowed to choose an address for their blog that
6 contains a unique, user-chosen phrase followed by “wordpress.com,” and that this address is free.
7 Automattic further admits that, for a fee, users can select a custom address that does not include
8 “wordpress.com.” Automattic denies the remaining allegations contained in Paragraph 24 of the
9 Complaint.

10 25. Automattic admits that users register for a user account and then set up an address
11 for their blog, and that <https://en.wordpress.com/features/> states that “We give you the tools to
12 create the site you want.” Automattic denies the remaining allegations contained in Paragraph 25
13 of the Complaint.

14 26. Automattic admits that users are required to supply an email address and that other
15 personal information is optional. Automattic denies the remaining allegations of Paragraph 26 of
16 the Complaint.

17 27. Automattic denies the allegations of Paragraph 27 of the Complaint.

18 28. Automattic lacks knowledge or information sufficient to form a belief as to the truth
19 of the g allegations contained in Paragraph 28 of the Complaint and therefore denies those
20 allegations.

21 29. Automattic lacks knowledge or information sufficient to form a belief as to the truth
22 of the remaining allegations contained in Paragraph 29 of the Complaint and therefore denies those
23 allegations.

24 30. Automattic lacks knowledge or information sufficient to form a belief as to the truth
25 of the remaining allegations contained in Paragraph 30 of the Complaint and therefore denies those
26 allegations.

27 31. Automattic lacks knowledge or information sufficient to form a belief as to the truth
28 of the allegations contained in Paragraph 31 of the Complaint and therefore denies those

allegations.

32. Automattic lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 32 of the Complaint and therefore denies those allegations.

33. Automattic lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 33 of the Complaint and therefore denies those allegations.

34. Automattic lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 34 of the Complaint and therefore denies those allegations.

35. Automattic lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 35 of the Complaint and therefore denies those allegations.

36. Automattic denies that the Muscle Beach Domains have “no bona fide non-commercial or fair use.” Automattic lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 36 of the Complaint and therefore denies those allegations.

COUNT I

Cybersquatting Under 15 U.S.C. 1125(d)

37. Automattic incorporates by reference its responses in paragraphs 1-36 as set forth above. Except as expressly stated herein, Automattic denies the allegations of Paragraph 37 of the Complaint.

38. Automatic denies the allegations of Paragraph 38 of the Complaint.

39. Automattic lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 39 of the Complaint and therefore denies those allegations.

RESPONSE TO PRAYER FOR RELIEF

Automatic denies that Plaintiff is entitled to judgment, the relief requested, or to any relief

1 at all. To the extent that Paragraphs A and B under Plaintiff's Prayer for Relief are interpreted to
 2 contain any factual allegations, Automattic denies each and every such factual allegation.

3 **AFFIRMATIVE DEFENSES**

4 Automattic, without waiver, limitation or prejudice, further answers the Complaint by
 5 asserting the following affirmative defenses:

6 **FIRST AFFIRMATIVE DEFENSE**

7 The Complaint fails to state a claim upon which relief may be granted.

8 **SECOND AFFIRMATIVE DEFENSE**

9 The use of the Muscle Beach trademarks is fair use.

10 **THIRD AFFIRMATIVE DEFENSE**

11 The Muscle Beach domains are not actionable under the ACPA.

12 **FOURTH AFFIRMATIVE DEFENSE**

13 Automattic expressly reserves all affirmative defenses under Rule 8(c) of the Federal Rules
 14 of Civil Procedure, as well as any other defenses at law or in equity that may now exist or in the
 15 future be available based on discovery and further factual investigation. To the extent not already
 16 pled, Automattic reserves the right to add, assert and rely upon any additional affirmative defenses
 17 or other defenses that may become available pending further discovery and factual investigation,
 18 and hereby gives notice that it reserves its right to amend its Answer to assert any such affirmative
 19 defense and/or other defense.

20 **COUNTERCLAIM**

21 1. Without any waiver of its rights, including the right to seek dismissal of this action,
 22 Automattic, by and through its undersigned counsel, hereby alleges:

23 **PARTIES**

24 2. Automattic is a corporation organized under the laws of the State of Delaware with
 25 its principal place of business at 132 Hawthorne St., San Francisco, California 94107. Automattic
 26 operates WordPress.com, a web publishing platform for blogs and websites. The Muscle Beach
 27 Domains

28 3. Thermolife purports to be a limited liability company organized and existing under

1 the laws of the State of Arizona, with its principal place of business located in Phoenix, Arizona.

2 **JURISDICTION AND VENUE**

3 4. This counterclaim arises under 15 U.S.C. § 1125 (d). This court has subject matter
4 jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337, 1338 and/or 1367.

5 5. Venue is proper because Plaintiff brought suit in this district.

6 **COUNT I**

7 **Declaratory Relief**

8 6. Automattic realleges and incorporates herein by reference that matters set forth in
9 paragraphs 1-5 of the Counterclaim above.

10 7. Plaintiff has invoked the ACPA, 15 U.S.C § 1125(d). Plaintiff wrongly seeks an
11 injunction based on a third-level domain, when only second-level domains are actionable under the
12 ACPA. Plaintiff further wrongly alleges that Automattic is a “domain name authority” under the
13 ACPA.

14 8. Absent a declaration and order as sought by Automattic, Plaintiff will continue to
15 wrongfully assert a cybersquatting claim for the Muscle Beach domains. An immediate, definite,
16 real and concrete dispute exists between Automattic and Plaintiff over whether the Muscle Beach
17 domains violate the ACPA and whether Automattic is a “domain name authority” under the ACPA.

18 9. A declaration that Plaintiff’s cybersquatting claim is barred will render moot many,
19 if not all, existing claims and defenses in this Action.

20 10. Therefore, Automattic is entitled to a declaration that the Muscle Beach domains do
21 not violate 15 U.S.C. § 1125(d).

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Intervening Defendant and Counterclaimant Automattic prays for relief as
24 follows:

25 A. That judgment be entered in favor of Automattic and against Plaintiff on each and
26 every count of the Complaint and on each and every count of Automattic’s Counterclaims;

27 B. That Plaintiff’s Complaint be dismissed with prejudice;

28 C. That Judgment be entered declaring that the Muscle Beach Domains do not violate

1 15 U.S.C. § 1125(d);

2 D. That Judgment be entered declaring that Plaintiff is not entitled to injunctive relief;

3 F. That Judgment be entered in Automattic's favor declaring this case an exceptional
4 case pursuant to 15 U.S.C. § 1117(c) and that Automattic be awarded reasonable attorneys' fees,
5 expenses; and costs; and

6 G. That Automattic be awarded such other and further relief as the Court deems just
7 and proper.

8 Dated: _____, 2015

9 PROCOPIO, CORY, HARGREAVES & SAVITCH
10
11 LLP

12 By: _____

13 Melinda M. Morton
14
15 Attorney for Intervenor and Counter-Claimant
16 AUTOMATTIC INC.
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EXHIBIT B

ICANN WHOIS BETA

ronkramermusclebeach.wordpress.com

Lookup

Showing results for: wordpress.com

Original Query: ronkramermusclebeach.wordpress.com

Contact Information

Registrant Contact

Name: Domain Admin

Organization: Automattic, Inc.

Mailing Address: 60 29th Street, #343, San Francisco CA 94110 US

Phone: +1.8772738550

Ext:

Fax:

Fax Ext:

Email: domains@automattic.com

Admin Contact

Name: Domain Admin

Organization: Automattic, Inc.

Mailing Address: 60 29th Street, #343, San Francisco CA 94110 US

Phone: +1.8772738550

Ext:

Fax:

Fax Ext:

Email: domains@automattic.com

Tech Contact

Name: Domain Admin

Organization: Automattic, Inc.

Mailing Address: 60 29th Street, #343, San Francisco CA 94110 US

Phone: +1.8772738550

Ext:

Fax:

Fax Ext:

Email: domains@automattic.com

Registrar

WHOIS Server: whois.markmonitor.com

URL: <http://www.markmonitor.com>

Registrar: MarkMonitor, Inc.

IANA ID: 292

Abuse Contact Email: abusecomplaints@markmonitor.com

Abuse Contact Phone: +1.2083895740

Status

Domain Status: clientUpdateProhibited

(<https://www.icann.org/epp#clientUpdateProhibited>)

Domain Status: clientTransferProhibited

(<https://www.icann.org/epp#clientTransferProhibited>)

Domain Status: clientDeleteProhibited

(<https://www.icann.org/epp#clientDeleteProhibited>)

Important Dates

Updated Date: 2015-03-17

Created Date: 2000-03-03

Registration Expiration Date: 2020-03-03

Name Servers

ns1.wordpress.com
ns3.wordpress.com
ns4.wordpress.com
ns2.wordpress.com

Raw WHOIS Record

Domain Name: wordpress.com
Registry Domain ID: 21242797_DOMAIN_COM-VRSN
Registrar WHOIS Server: whois.markmonitor.com
Registrar URL: http://www.markmonitor.com
Updated Date: 2015-03-17T12:07:40-0700
Creation Date: 2000-03-03T04:13:23-0800
Registrar Registration Expiration Date: 2020-03-03T04:13:23-0800
Registrar: MarkMonitor, Inc.
Registrar IANA ID: 292
Registrar Abuse Contact Email: abusecomplaints@markmonitor.com
Registrar Abuse Contact Phone: +1.2083895740
Domain Status: clientUpdateProhibited
(<https://www.icann.org/epp#clientUpdateProhibited>)
Domain Status: clientTransferProhibited
(<https://www.icann.org/epp#clientTransferProhibited>)
Domain Status: clientDeleteProhibited
(<https://www.icann.org/epp#clientDeleteProhibited>)
Registry Registrant ID:
Registrant Name: Domain Admin
Registrant Organization: Automattic, Inc.
Registrant Street: 60 29th Street, #343
Registrant City: San Francisco
Registrant State/Province: CA
Registrant Postal Code: 94110
Registrant Country: US
Registrant Phone: +1.8772738550
Registrant Phone Ext:
Registrant Fax:
Registrant Fax Ext:
Registrant Email: domains@automattic.com
Registry Admin ID:
Admin Name: Domain Admin
Admin Organization: Automattic, Inc.
Admin Street: 60 29th Street, #343
Admin City: San Francisco
Admin State/Province: CA
Admin Postal Code: 94110

Admin Country: US
Admin Phone: +1.8772738550
Admin Phone Ext:
Admin Fax:
Admin Fax Ext:
Admin Email: domains@automattic.com
Registry Tech ID:
Tech Name: Domain Admin
Tech Organization: Automattic, Inc.
Tech Street: 60 29th Street, #343
Tech City: San Francisco
Tech State/Province: CA
Tech Postal Code: 94110
Tech Country: US
Tech Phone: +1.8772738550
Tech Phone Ext:
Tech Fax:
Tech Fax Ext:
Tech Email: domains@automattic.com
Name Server: ns1.wordpress.com
Name Server: ns3.wordpress.com
Name Server: ns4.wordpress.com
Name Server: ns2.wordpress.com
DNSSEC: unsigned
URL of the ICANN WHOIS Data Problem Reporting System:
<http://wdprs.internic.net/>
>>> Last update of WHOIS database: 2015-04-28T16:22:09-0700 <<<

The Data in MarkMonitor.com's WHOIS database is provided by MarkMonitor.com for information purposes, and to assist persons in obtaining information about or related to a domain name registration record. MarkMonitor.com does not guarantee its accuracy. By submitting a WHOIS query, you agree that you will use this Data only for lawful purposes and that, under no circumstances will you use this Data to:

(1) allow, enable, or otherwise support the transmission of mass unsolicited, commercial advertising or solicitations via e-mail (spam); or
(2) enable high volume, automated, electronic processes that apply to

MarkMonitor.com (or its systems).

MarkMonitor.com reserves the right to modify these terms at any time.

By submitting this query, you agree to abide by this policy.

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MarkMonitor Brand Protection(TM)
MarkMonitor AntiPiracy(TM)
MarkMonitor AntiFraud(TM)
Professional and Managed Services

Visit MarkMonitor at <http://www.markmonitor.com>
Contact us at +1.8007459229
In Europe, at +44.02032062220

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Submit a Complaint for WHOIS

[WHOIS Inaccuracy Complaint Form](#)

[WHOIS Service Complaint Form](#)

[WHOIS Compliance FAQs](#)

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* There is one exception: ICANN acts as the registry operator for the .int TLD, and in that capacity it does collect, generate, retain and store information regarding registrations in the .int TLD.

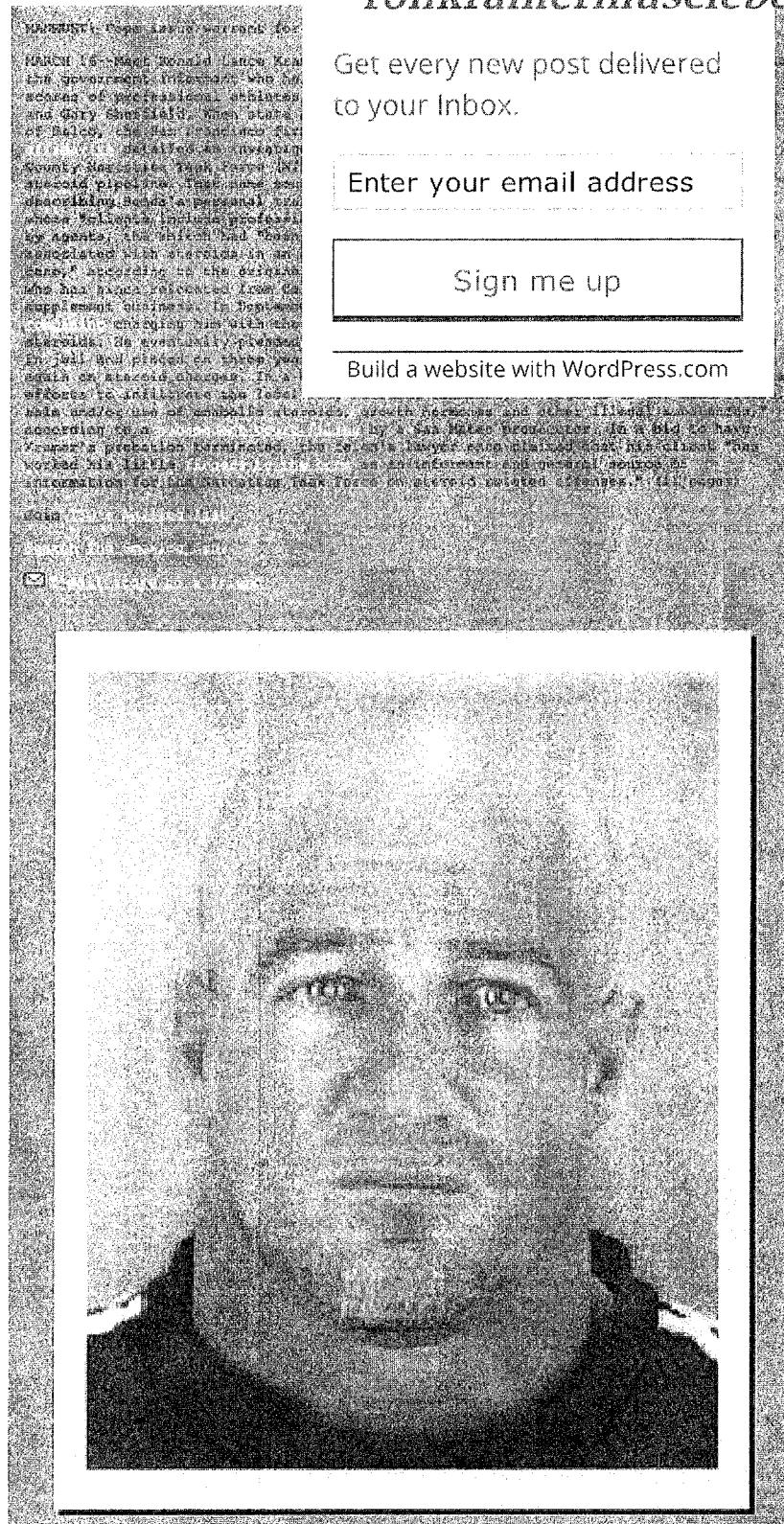
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EXHIBIT C

ronkramermusclebeach

MUSCLE BEACH NUTRITION

 Follow

Apr
23

Ron Kramer Smoking Gun / BALCO snitch article

Apr
23

Ron Kramer, second steroid arrest, beginning of snitch life

This is the one that kicked it all off – decades of criminal activity and snitching by Ron Kramer, who owns Thermolife International and Muscle Beach Nutrition

1 JAMES P. FOX, DISTRICT ATTORNEY
 2 County of San Mateo, State of California
 3 State Bar No. 45169
 4 400 County Center, 4th Floor
 5 Redwood City, California 94063
 6 By: Melissa R. McKowan, Deputy District Attorney
 7 Telephone: (650) 363-4677
 8 Attorney for Plaintiff

FILED

APR 24 2001

Clerk of the Superior Court
 By *[Signature]*
 DEPUTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN MATEO

CHS

10 THE PEOPLE OF THE STATE OF CALIFORNIA,

No. SC41490

11 Plaintiff,

OPPOSITION TO DEFENDANT'S
 MOTION TO TERMINATE
 PROBATION AND DISMISS
 ACTION PURSUANT TO PC § 1385

12 v.

13 RONALD KRAMER,

14 Defendant.

Date: 4/27/01
 Time: 9:00
 Dept: TBA

16 On October 14, 1997, Defendant was convicted of sales of large quantities of two different
 17 types of anabolic steroids in violation of H&S § 11379. Thirteen additional charges were dismissed
 18 pursuant to the plea. Defendant was, thereafter, placed on felony probation for a period of three
 19 years. As a condition of his probation, he was ordered to serve six months in the county jail and he
 20 was specifically ordered not to possess any anabolic steroids, other controlled substances or drug
 21 paraphernalia.

22 On February 29, 2000, a probation search of defendant's business establishment and home
 23 revealed numerous unlabeled containers filled with powders, pills and liquids, some of which were
 24 tested and found to contain testosterone, Stanolone (an anabolic steroid), GBL (Gammabutyrolactone),
 25 GHB (Gammahydroxybutyrate), and Estrenedione (another anabolic steroid). Additionally, officers

Found on www.thermolulz.tumblr.com

Apr
23

Thermolife Loses Lawsuit to Gaspari (Losers Gonna Lose, part 2)

Here's a good one. It's Ron Kramer, the new owner of Muscle Beach Nutrition, suing as Thermolife and getting his butt handed to him in court by Rich Gaspari and Gaspari Nutrition:

Case 2:11-cv-01056-NVW Document 392 Filed 01/10/14 Page 1 of 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

ThermoLife International, LLC.,)	JUDGMENT IN A CIVIL CASE
)	
Plaintiff/Counterdefendant,)	CV-11-1056-PHX-NVW
)	
v.)	
)	
Gaspari Nutrition, Inc., et al.,)	
)	
Defendants/Counterclaimants..)	

Pursuant to the Court's order filed this date and upon the Court's instruction therein, ORDERED AND ADJUDGED judgment is entered against Plaintiff ThermoLife International, LLC, on its complaint and in favor of Defendant Gaspari Nutrition, Inc., and that Plaintiff take nothing.

FURTHER ORDERED judgment is entered against Counterclaimant Gaspari Nutrition, Inc., on its counterclaim and in favor of Counterdefendant ThermoLife International, LLC, and that Counterclaimant take nothing.

JUDGMENT ENTERED this 10th day of January, 2014.

BRIAN D. KARTH
District Court Executive/Clerk

g/M. Pruncau
By: Deputy Clerk

From Anabolic Mayhem: <http://anabolicmayhem.com/thermolife-loses-against-gaspari-nutrition-in-lawsuit/>

Apr
23

Ron Kramer's lawyers say client can "lie his head off" online

In the lawsuit filed by Mr. Ronald Lance Kramer and Thermolife (now the owner of Muscle Beach Nutrition), versus Gaspari Nutrition, Kramer's legal team argued that anything he says online amounts to

"puffery" and should be construed as mere advertising, not subject to the truth. And here's where Gaspari Nutrition's lawyers disagreed:

"bankrupt" Rich Gaspari. ThermoLife cites these factual claims in its own brief, then cites a California district court case for the proposition that "[t]he 'puffing' rule amounts to a seller's privilege to lie his head off, so long as he says nothing specific." Docket No. 52 at 9:19-21 (citing *TYR Sport, Inc. v. Warnaco Swimwear, Inc.*, 709 F. Supp. 821, 830 (C.D. Cal. 2010)). This argument is especially disingenuous in light of the fact that Mr. Kramer refers to himself as the "Truth Speaker" on Internet message boards. In other words, ThermoLife argues that the "puffery" rule allows Mr. Kramer to "lie his head off" on the Internet and sign those lies, "Truth Speaker." Fortunately for consumers, that is not the law.

Apr
23

Ron Kramer and Thermolife V. Connors (Losers gonna lose)

Kramer and Thermolife lose their case against Connors (Anthony Roberts), then lose again upon appeal. Fail.

<http://www.leagle.com/decision/In%20AZCO%2020121127013>

Apr
23

Ron Kramer of Muscle Beach Nutrition/ Thermolife, INFORMANT!

7077
SF 206456
4/27/01

1 GEOFFREY T. CARR (SBN: 88055)
 2 CARR, YELEY & ADAMS
 3 A Professional Corporation
 4 605 Middlefield Road
 5 Redwood City, CA 94063
 6 Telephone: (650) 364-3346
 7 Fax: (650) 365-4206
 8 Attorneys for Defendant

FILED
SAN MATEO COUNTY

MAR 29 2001

Clerk of the Superior Court
By: [Signature]

8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
 9 IN AND FOR THE SAN MATEO

10 THE PEOPLE OF THE STATE OF CALIFORNIA NO. SC41490A

11 Plaintiff, *CGS*MOTION TO
TERMINATE
PROBATION

12 vs.

Date: 4/27/01
Time: 9:00 a.m.
Dept: TBA13 RONALD KRAMER,
14 Defendant.

15 At the time of the Preliminary Hearing in this matter, Defendant RONALD
 16 KRAMER will move to terminate probation in this case. The grounds for this motion are
 17 that the Defendant was convicted on December 16, 1997. He has been continuously
 18 supervised since that time by Probation Officer Tim Gatto. Although the Defendant's
 19 probation was "revoked" pending his new charges, he has been continuously supervised
 20 and has had many "hoops" to jump through during this period of suspended animation.
 21 In other words, the Defendant has been on probation even though he was theoretically
 22 revoked.

23 The equitable reasons for terminating probation are quite simply that since his
 24 arrest approximately a year ago on a new charge (the matter on for prelim on today's
 25 date), the Defendant has worked his little fingers to the bone as an informant and general
 26 source of information for the Narcotics Task Force on steroid related offenses. Many
 27 [REDACTED]

LAW OFFICES OF
CARR, YELEY & ADAMS
605 MIDDLEFIELD ROAD
REDWOOD CITY, CA 94063
(650) 364-3346

MOTION TO TERMINATE PROBATION

1

Found@: www.thermolulz.tumblr.comApr
23

Ron Kramer, Muscle Beach
 Nutrition/Themolife owner, Sexual Assault

FILED
MUNICIPAL COURT
SANTA CRUZ

4 AUTHOR DALE BELL, DISTRICT ATTORNEY
5 KATHY CANLIE, ASSISTANT DISTRICT ATTORNEY FEB 16 1993
6 COUNTY GOVERNMENT CENTER
7 701 OCEAN STREET, ROOM 200
8 SANTA CRUZ, CALIFORNIA 95060
9 TELEPHONE: (408) 424-2400

10 ATTORNEYS FOR THE PEOPLE

11

12

13

14

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MUNICIPAL COURT OF CALIFORNIA, COUNTY OF SANTA CRUZ
SANTA CRUZ JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, Case No. 430756
vs. COMPLAINT -- CRIMINAL
RONALD LANCE KRAMER, Defendant(s), Date: 02/16/93
Defendant(s), Time: 1:30 P.M.
Defendant(s), Dept: 1
Defendant(s), Event: MRCC

Arthur Dale Bell, District Attorney of the County of Santa Cruz, State of California, accuses RONALD LANCE KRAMER of the following crime(s) committed in the County of Santa Cruz, State of California:

COUNT 1 A violation of section 243.4(d) of the Penal Code of the State of California, a Misdemeanor committed on or about January 19, 1993 in that at said time and place the above named defendant(s) did willfully and unlawfully touch an intimate part of Jana Rinaldi, against the will and for the specific purpose of sexual arousal, sexual gratification and sexual abuse.

COUNT 2 A violation of section 136.1(b)(3) of the Penal Code of the State of California, a Misdemeanor committed on or about

Ron Kramer, Muscle Beach Nutrition, sexual assault charges

Sworn to and subscribed at said time and place this above named
day, month and year, and unlawfully attempted to prevent and
impede the election of the 167 members of the First, Second, Third
and Fourth and working force of a certain
and to the end of the election.

Under penalties of perjury, I declare under penalty of perjury that the foregoing is true and correct.

Received at February 15, 1992; accepted at April 14, 1993.

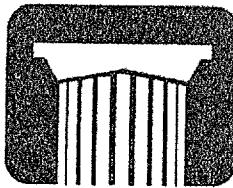
ARTHUR LANNER, JR.
DISTRICT ATTORNEY

卷之三

ronkramermusclebeach

Blog at WordPress.com. The Reddle Theme.

EXHIBIT D



KERCSMAR
& FELTUS PLLC
www.businesslawaz.com

7150 EAST CAMELBACK ROAD, SUITE 285
SCOTTSDALE, AZ 85251
(480) 421-1001 • FAX (480) 421-1002

Gregory B. Collins
gbc@kflawaz.com

March 10, 2015

Via Email and Certified Mail

MarkMonitor, Inc.
425 Market St.
5th Floor
San Francisco, CA 94105
abusecomplaints@markmonitor.com

Automatic, Inc.
60 29th Street #343
San Francisco, CA 94110
domains@automatic.com

Dear Sir or Madam,

This letter is sent pursuant to 15 U.S.C. § 1125(d)(2)(A)(ii)(II)(aa). My client, ThermoLife International, LLC (which does business as Muscle Beach), provides notice of its intent to proceed with an *in rem* action under 15 U.S.C. § 1125(d)(2)(A) against the following domain names:

<https://ronkramermusclebeach.wordpress.com/>

<https://ronkramermusclebeach.wordpress.com/author/musclebeachkramer/>

Whois.com lists MarkMonitor, Inc. as the registrar of these domains and Automatic, Inc. as the registrant. As fully explained in the attached draft *In Rem* Complaint, Automatic, Inc. has registered/assigned the domain names at issue to an individual that registered with Automatic, Inc. that provided becausescience@anonymousspearch.com as his/her email address. Despite our best efforts we have been unable to determine the identity of this individual.

Please contact me if you have any questions. We intend to file the attached *In Rem* Complaint on or about March 18, 2015.

March 10, 2015
Page 2 of 2

Best regards,

KERCSMAR & FELTUS PLLC



Gregory B. Collins

cc: Mindy Morton (mindy.morton@procopio.com) counsel for Automatic, Inc.

Gregory B. Collins (*pro hac vice application pending*)
Eric B. Hull (# 291167)
KERCSMAR & FELTUS PLLC
7150 East Camelback Road, Suite 285
Scottsdale, Arizona 85251
Telephone: (480) 421-1001
Facsimile: (480) 421-1002
gbc@kflawaz.com
ebh@kflawaz.com

Attorney for Plaintiffs
ThermoLife International LLC

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

ThermoLife International LLC, an
Arizona limited liability company,

Case No.

IN REM COMPLAINT

Plaintiffs,

V.

https://ronkramermusclebeach.wordpress.com/, an Internet domain name; https://ronkramermusclebeach.wordpress.com/author/musclebeachkramer/, and an Internet domain name.

Defendants.

For its *In Rem* Complaint ThermoLife International LLC (“ThermoLife”) alleges as follows:

NATURE OF CASE

1. This is an *in rem* action against the domain names:

<https://ronkramermusclebeach.wordpress.com/>

<https://ronkramermusclebeach.wordpress.com/author/musclebeachkramer/>

(together "the Muscle Beach Domains").

1 2. This action is brought under the Anti-Cybersquatting Consumer Protection
2 Act, 15 U.S.C. § 1125(d). Plaintiff seeks preliminary and permanent injunctive relief
3 transferring to Plaintiff the registration of the Muscle Beach Domains.

JURISDICTION AND VENUE

6 3. This Court has subject matter jurisdiction over this case pursuant to 28 U.S.C.
- §§ 1331 and 1338(a).

8 4. The Court has *in rem* jurisdiction over the Muscle Beach Domains pursuant to
9 15 U.S.C. § 1125(d) and 28 U.S.C. § 1655. 15 U.S.C. § 1125(d) provides that the
10 “owner of a mark may file an *in rem* civil action against a domain name in the judicial
11 district in which the domain name registrar, domain name registry, or other domain name
12 authority that registered or assigned the domain name is located if: (i) the domain name
13 violates any right of the owner of a mark registered in the Patent and Trademark Office,
14 or protected under subsection (a) or (c) of this section; and (ii) the court finds that the
15 owner through due diligence was not able to find a person who would have been a
 defendant in a civil action”

17 5. Plaintiff owns the following federally registered marks and trademark
18 applications:

Mark	For Use With	Status
MUSCLE BEACH	Athletic clothing Business Consultation Services Health Club Services	Reg. # 0949098 (October 12, 2010)
MUSCLE BEACH	Dietary Supplements	Serial # 86230164 (Published for Opposition July 29, 2014)
MUSCLE BEACH NUTRITION	Dietary Supplements	Serial # 86230288 (Published for Opposition July 29, 2014)
MUSCLE BEACH	Entertainment Services	Serial # 86491329 (Application filed December 29, 2014)

1 These marks are collectively referred to as the MUSCLE BEACH Marks. This family of
2 marks has not been abandoned canceled, or revoked. ThermoLife also has common law
3 rights in the MUSCLE BEACH Marks, which it uses in connection with the sale and
4 advertisement of dietary supplements and generally in the fitness industry.

5 6. As required by 15 U.S.C. § 1125(d) to maintain an *in rem* action, Plaintiff has
6 diligently sought to identify the proper defendant to a civil action for damages under 15
7 U.S.C. § 1125(d). As part of its search, Plaintiff filed a civil action in Arizona state
8 court, Case No. 2014-011404 pending in Maricopa County Superior Court, against a
9 fictional John Doe defendant. In that proceeding, Plaintiff served domain name registrant
10 Automatic, Inc. (“Automatic”) with a subpoena seeking documents that identify the
11 user/author/licensee of the Muscle Beach Domains. Responding to the subpoena,
12 Automatic indicated that it had no documents that identified the user/author/licensee of
13 the Muscle Beach Domains. The only information that Automatic had its possession was
14 the email address that was used by the user/author/licensee that Automatic allowed to
15 create the Muscle Beach Domains: becausescience@anonymousspeech.com. From this
16 email address, Plaintiff was unable to identify the user/author/licensee of the Muscle
17 Beach Domains.

18 7. As required by 15 U.S.C. § 1125(d), before filing this action Plaintiff served
19 the registrant of the Muscle Beach Domains with notice of its intent to file this In Rem
20 Complaint. On March 10, 2015, notice was provided via email and mail to Automatic’s
21 counsel that responded to the subpoena discussed in the preceding paragraph. Automatic
22 did not respond.

23 8. Notice was also provided to registrar MarkMonitor, Inc. by sending a copy of
24 this complaint via email to the contact email listed on whois.com for MarkMonitor, Inc.,
25 abusecomplaints@markmonitor.com, and by sending a copy of this complaint along with
26 a cover letter to Markmonitor via registered mail. MarkMonitor, Inc. has not responded.
27
28

1 9. As a separate and independent basis for *in rem* jurisdiction, upon service of this
2 Complaint upon the registrar of the Muscle Beach Domains, the registrar is required to
3 deposit the Muscle Beach Domains in the registry of the Court.

4 10. Venue is proper in this Court under 28 U.S.C. §§ 1391(b), 1391(c), and 15
5 U.S.C. § 1125(d), because the registrar of the Muscle Beach Domains is located in San
6 Francisco, California.

FACTUAL ALLEGATIONS

9 11. ThermoLife is a limited liability company organized and existing under the
0 laws of the State of Arizona, with its principal place of business located in Phoenix,
Arizona.

2 12. ThermoLife does business under the federally registered MUSCLE BEACH
Marks, described above.

13. ThermoLife's President and Chief Executive Officer is Ron Kramer.

5 14. Prior to founding ThermoLife, Mr. Kramer was a gym owner who had
6 competed in bodybuilding and later promoted professional bodybuilding competitions for
7 the International Federation of Bodybuilders.

15. Between 1994 and 1997, Mr. Kramer opened a Gold's Gym in Santa Cruz, California.

16. During his time as a bodybuilder, promoter, and gym owner, Mr. Kramer discovered that many supplements failed to meet any quality control standards. Often supplements are spiked with hidden ingredients and/or labeled incorrectly.

17. At the time ThermoLife was established, few supplements were clinically researched or field tested. Even today, relatively few supplements have been proven to work as advertised.

18. In 1998, Mr. Kramer founded ThermoLife in order to provide the public with quality proven supplements. ThermoLife is committed to selling only the purest, most powerful and innovative products.

1 19. Consistent with ThermoLife's commitment to selling the purest, most powerful
2 and innovative products, Mr. Kramer is the named inventor on 17 patents related to the
3 dietary supplement industry. These patents protect ThermoLife's innovative and proven
4 products from being copied by ThermoLife's competitors. Mr. Kramer is widely known
5 in the dietary supplement industry and those in the industry recognize that Mr. Kramer is
6 affiliated with ThermoLife and the names that ThermoLife does business under, like
7 Muscle Beach.

8 20. Ron Kramer has common law trademark rights in his name, RON KRAMER,
9 which has been used in connection with the sale and advertising of dietary supplements
10 for over sixteen years and is widely known and identified in the industry.

11 21. The Muscle Beach Domains are Wordpress.com internet blogs.
12 Wordpress.com is owned and operated by Automatic. Wordpress.com advertises that
13 “[Wordpress will] set up and configure your custom domain so that you can start using it
14 in seconds.”

15 22. Unless users pay for Wordpress' premium service, the custom domain that
16 Wordpress allows users to configure is assigned a domain that is a unique user chosen
17 phrase or word followed by “.wordpress.com”. In this way, Wordpress domain names
18 are similar to twitter or facebook profiles, which often include the user's name followed
19 by either “.twitter.com” or “.facebook.com”.

20 23. A user obtains a domain through Wordpress by registering for a user account
21 and setting up a domain using what Wordpress describes as “tools to create the site you
22 want.”

23 24. In registering with Wordpress.com, Wordpress only requires an email address.
24 No other personal information is required.

25 25. In early 2014, ThermoLife discovered the Muscle Beach Domains when a
26 customer alerted ThermoLife's President Ron Kramer to these domains.

27
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1 26. The Muscle Beach Domains violate the rights of the rightful owner of the
2 federally registered MUSCLE BEACH Marks. The names incorporate the registered
3 MUSCLE BEACH name and they use it in connection with the name of ThermoLife's
4 President, Ron Kramer. The use of the MUSCLE BEACH name in connection with the
5 name of ThermoLife's President, Ron Kramer, serves to further the perceived connection
6 between the Muscle Beach Domains and the Muscle Beach brand.

7 27. Although not necessary to obtain an *in rem* order requiring the transfer of the
8 Muscle Beach Domains to ThermoLife, the Muscle Beach Domains infringe on the
9 Muscle Beach Marks. Upon information and belief, the Muscle Beach Domains are
10 authored by, used by, licensed to, and registered by an individual that is paid by dietary
11 supplement companies to promote dietary supplement products and/or disparage Muscle
12 Beach's name and products.

13 28. The Muscle Beach Domains include content aggregated from websites that
14 contain false information regarding Ron Kramer. Much of the information published on
15 the Muscle Beach Domains has already been adjudicated false and defamatory by the
16 New Jersey Federal District Court.

17 29. Other information found on the Muscle Beach Domain is taken from public
18 records searches. The government agencies that authored the public records at issue have
19 repeatedly acknowledged that the records published on the Muscle Beach Domains
20 contain false information.

21 30. Although not necessary to obtain an *in rem* order requiring the transfer of the
22 Muscle Beach Domains to ThermoLife, upon information and belief, the Muscle Beach
23 Domains are authored, used, licensed, and registered with a bad faith intent to profit from
24 the MUSCLE BEACH marks, possibly by harming the MUSCLE BEACH name.

25 31. The Muscle Beach Domains were authored, used, licensed and registered
26 without the consent of ThermoLife.

Kercsmar & Feltus PLLC
7150 East Camelback Road, Suite 285
Scottsdale, Arizona 85251
(480) 421-1001

1 32. Upon information and belief, the author, user, licensee, registrant of the
2 Muscle Beach Domains has no prior use of the MUSCLE BEACH mark.

3 33. Upon information and belief, the author, user, licensee and registrant of the
4 Muscle Beach Domains has made no bona fide non-commercial or fair use of the Muscle
5 Beach Domains.

COUNT I

(Cybersquatting Under 15 U.S.C. 1125(d))

8 34. ThermoLife incorporates by reference the allegations contained in the
9 proceeding paragraphs as if fully set forth herein.

10 35. The author, user, licensee and registrant of the Muscle Beach Domains has
11 trafficked in, and/or used domain names that are confusingly similar to ThermoLife's
12 MUSCLE BEACH Marks.

13 36. As a direct and proximate result of such conduct, ThermoLife has suffered, and
14 will continue to suffer, monetary loss and irreparable injury to business, reputation and
15 goodwill.

PRAYER FOR RELIEF

17 WHEREFORE, Plaintiff respectfully prays that the Court grant the following
18 relief:

19 A. A preliminary and permanent injunction requiring the domain name
20 registrar to transfer the registration of the following domains to ThermoLife
21 International, LLC;

22 | <https://ronkramermusclebeach.wordpress.com/>

23 <https://ronkramermusclebeach.wordpress.com/author/musclebeachkramer/>

24 B. All other relief to which ThermoLife is entitled.

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1 RESPECTFULLY SUBMITTED this ____ day of _____, 2015.
2
3

4
5 KERCSMAR & FELTUS PLLC
6
7

8 By: _____
9

10
11 Gregory B. Collins
12 Eric B. Hull
13 7150 East Camelback Road, Suite 285
14 Scottsdale, Arizona 85251
15 *Attorneys for ThermoLife International LLC*
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Kercesmar & Feltus PLLC
7150 East Camelback Road, Suite 285
Scottsdale, Arizona 85251
(480) 421-1001

EXHIBIT E

Support

Search WordPress.com Suppl

Policies & Safety

Dispute Resolution & Reporting » Legal Guidelines

What Information Do We Have?

WordPress.com has certain information from users and commenters. The following is a summary of the information that we may collect and store.

1. Basic account information, such as:

- Username
- Email address
- Name
- Phone number

2. Transaction and/or billing information (if upgrades have been purchased).

We will generally retain the above information until changed or removed by the user (if it's possible to do so). We also collect log data, which may include a user's IP address, browser type, operating system. We keep this information for up to 30 days as a matter of course. You can read more about how we handle preservation requests under "Preservation Requests for WordPress.com Sites" below.

3. Site creation, posting, and revision history information, such as:

- The date and time (UTC) at which a site was created
- The IP address from which a site was created
- IP address and user-agent for a post or revision

We may retain the above information, even if a site or post is deleted.

4. Information on commenters on WordPress.com sites.

We retain commenter information until the site owner of the site on which the comment appears deletes the comment.

More Information on Data Release and Retention

Before revealing any of this information to a party that is not the owner of the account, we require a validly issued subpoena, warrant, or court order that specifically requests it unless we have a good faith belief that there is an emergency involving death or serious physical injury. More information on our requirements for releasing private user information can be found below.

If you wish to stop using WordPress.com, you may empty your site by following [these steps](#) or contacting us. If you have registered a custom domain with us, but it is no longer active, we can delete

the physical address you provided upon your request.

To remove any other profile information you've chosen to provide, visit the following URLs:

- <https://mysite.wordpress.com/wp-admin/users.php?page=profiles-editor> (replacing "mysite.wordpress.com" with your URL)
- <https://wordpress.com/me>
- <https://wordpress.com/me/security>

If you are concerned about maintaining your anonymity when using our services, you may want to consider logging in and interacting with WordPress.com through a VPN. You can find more information [here](#).

[↑ Table of Contents ↑](#)

Requesting Private Information of WordPress.com Users

Safeguarding our users' private information is a vital aspect of the trust our users place in our service to keep them safe, and in some cases, anonymous.

Automattic receives requests for information from government agencies/law enforcement as well as individuals or corporations involved in civil lawsuits.

To request information for a site hosted on WordPress.com, the site's .wordpress.com URL (such as example.wordpress.com) must be specifically included in the request. To obtain information for a specific post or comment, the URL of that post or comment must be included in the request. We are unable to process overly broad or vague requests.

WordPress.com accounts can contain various information. This information is unverified and is provided at the user's discretion.

If your inquiry or request brings to our attention an ongoing violation of our policies or Terms of Service, we will address it per our usual procedure. This may or may not include contacting the user regarding their misconduct, removing content, or suspending the site entirely.

If we receive information indicating that someone is using our services to engage in crime where we are the victim, we will not inspect a user's private content ourselves. Instead, we may report the matter to law enforcement.

Requests from Government Agencies/Law Enforcement

Except in emergencies (see more below), it is our policy to turn over private user information only upon receipt of a valid subpoena, search warrant, or US Court order that complies with the Federal Rules of Criminal Procedure, the Federal Rules of Civil Procedure, and/or California state law.

For legal requests from government agencies/law enforcement from outside of the United States, we ask that the request be served via a United States court or enforcement agency under the procedures of an applicable mutual legal assistance treaty or letter rogatory.

If these pieces of information are available, we can provide the first and last names, phone number, email address currently assigned to a site owner, the date/time stamped IP address from which a site was created, the physical address, and the PayPal transaction information to government agencies/law

enforcement upon receipt of a valid subpoena.

Except in emergencies, we require a court order or a warrant before providing additional IP addresses or information relating to a specific post or a specific comment.

We require a warrant before disclosing content of user communications to government agencies/law enforcement. We also require a warrant before providing any non-public content information (such as private or draft post content, or pending comments).

[↑ Table of Contents ↑](#)

Emergency Requests from Government Agencies/Law Enforcement

As permitted by US law, we may disclose user information to the government or law enforcement, without a subpoena or warrant if we have a good faith belief that an emergency (danger of death or serious physical injury) requires disclosure of information related to the emergency without delay. We require emergency requests to be made in writing and include all the information available so that we may evaluate the urgency of the request. Additionally, we may ask for a subpoena, search warrant, or court order after the disclosure.

In these circumstances our policy is still to notify users and provide them with a copy of any legal process regarding their account or site unless we are prohibited by law or court order from doing so. However, in some circumstances, notification may come after the information has been disclosed.

Please contact us at law-enforcement@wordpress.com and include “emergency” in the subject line if you have an emergency request.

Requests in Civil Cases

It is our policy to turn over private user information only upon receipt of either (1) a valid order from a US court, or (2) a subpoena served as part of an existing lawsuit that complies with Rule 45 of the Federal Rules of Civil Procedure and/or the California Discovery Act. For legal requests from outside the United States, we ask that the request be served via a United States court or enforcement agency under the procedures of an applicable mutual legal assistance treaty or letter rogatory. Litigants should ensure that any such requests comply with the US SPEECH Act, 28 U.S.C. 4101 et seq.

Requests must identify the specific information (as listed above) sought. If a request is overly broad or seeks information not applicable to Automattic, we will provide the email address that is currently assigned to a site owner, the IP address from which a site was created, and the date and time (UTC) at which a site was created.

Any request for specific post or comment information must include the specific URL of each post or comment. We will not provide any content information in response to civil orders or subpoenas, pursuant to the E.C.P.A.

Please note that we charge an administrative fee of USD \$125/hour for compliance with validly issued and served civil subpoenas. We will bill for and collect this fee prior to furnishing information in response to a subpoena.

[↑ Table of Contents ↑](#)

Notification to WordPress.com Users and Transparency

We aim for total transparency with our users when requests or complaints affect their sites, accounts, or information. It is our policy to notify users and provide them with a copy of any civil or government legal process regarding their account or site (including formal requests for private information), unless we are prohibited by law or court order from doing so. In those cases, we will notify users and provide them with a copy of the legal process when the prohibition expires.

If a request for information is valid, we will preserve the necessary information before informing the user. In most cases, upon notification to the user, that user will be provided with either 7 days or the amount of time before the information is due, whichever is later, during which time the user may attempt to quash or legally challenge the request. If, prior to the deadline, we receive notice from user that he or she intends to challenge a request, no information will be delivered until that process concludes. We also review the information requests received and may lodge our own challenge to the scope or validity of legal process received, on behalf of a user, whether or not the user pursues his/her own legal challenge.

[↑ Table of Contents ↑](#)

Preservation Requests for WordPress.com Sites

Requests for the preservation of information must originate from a law enforcement agency.

Our notification policy with regards to preservation requests is meant to protect user privacy and promote transparency, while also avoiding interference with legitimate investigations of criminal activity.

We notify users of preservation requests. When law enforcement requests that a preservation request remain confidential, we keep it confidential for 45 days, with the expectation that they will be serving a valid US subpoena or search warrant that includes the required certification (2705(b)) or court-ordered non-disclosure provision. If the certification or court order is obtained, we will keep the preservation request secret under the same conditions as the subpoena/warrant. If, after 45 days law enforcement has not served a subpoena or search warrant or has served one without the required certification or secrecy order, or has not withdrawn the request, we inform the user of the request.

[↑ Table of Contents ↑](#)

Enforcing Protection Orders Against WordPress.com Users

WordPress.com is not responsible for enforcing protection orders that apply to users on our service. If you represent a client with an active protection order that may apply to a WordPress.com site, please contact the appropriate court or law enforcement agency for assistance.

[↑ Table of Contents ↑](#)

Who Is Liable for Sites Hosted on WordPress.com?

WordPress.com will respond only in compliance with US law and in reply to valid legal process as stated in our policies.

WordPress.com, as a United States-based internet service provider, is protected by the safe harbor provisions of §230(c) of the United States Communications Decency Act, which states that internet

service providers cannot be held liable for the contents (including allegedly harassing, defamatory, inaccurate, or offensive content) posted to our service by our users.

WordPress.com does not and will not exercise editorial oversight on the millions of sites hosted on our service, nor are we considered the author, editor, or publisher of that content in any way.

[↑ Table of Contents ↑](#)

Requests for Takedown of Copyrighted Content

WordPress.com complies with properly formatted notices sent in accordance with the Digital Millennium Copyright Act. More information about our DMCA process can be found [here](#).

[↑ Table of Contents ↑](#)

Requests for Takedown of Other Content

WordPress.com strongly believes in freedom of speech. We have a vast audience spread across many cultures, countries, and backgrounds with varying values and our service is designed to let users freely express any ideas and opinions without us censoring or endorsing them. We review and investigate all complaints that we receive. If we determine that reported content violates our [Terms of Service](#), we will take action as appropriate. Regardless of whether or not we take action, we may forward a copy of the complaint to the site owner.

If we receive a complaint and are not in a position to make a determination (for example whether something is defamatory or not), we defer to the judgment of a court.

[↑ Table of Contents ↑](#)

Serving Process on WordPress.com and Making Inquiries

Any request for user information must include a valid email address for us to return the information or contact with questions. WordPress.com communicates only via email.

Legal process can be served by mail to:

Automatic Inc.
548 Market St #63259
San Francisco, CA 94104-5401

Where permitted, we also accept service via email to court-orders@wordpress.com.

General inquiries regarding our policies can be sent via email to court-orders@wordpress.com.

[↑ Table of Contents ↑](#)

A Note on Back Doors, Encryption

We furnish user information to law enforcement agencies via the processes described in these legal guidelines. We do not provide access to user data through “back doors” in our systems.

Similarly, we support and promote encryption of user data. We encrypt all traffic (serve over SSL) for all *wordpress.com domains, by default.

Some governments have recently sought to weaken encryption, in the name of law enforcement. We disagree with these suggestions and do not believe that it's feasible to include **any** deliberate security weaknesses or other back doors in encryption technologies, even if "only" for the benefit of law enforcement. As a wise man said, "there is no such thing as a vulnerability in technology that can only be used by nice people doing the right thing in accord with the rule of law." We agree wholeheartedly.

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 - [Notification to WordPress.com Users and Transparency](#)
 - [Preservation Requests for WordPress.com Sites](#)
 - [Enforcing Protection Orders Against WordPress.com Users](#)
 - [Who Is Liable for Sites Hosted on WordPress.com?](#)
 - [Requests for Takedown of Copyrighted Content](#)
 - [Requests for Takedown of Other Content](#)
 - [Serving Process on WordPress.com and Making Inquiries](#)
 - [A Note on Back Doors, Encryption](#)
- [Topics](#)
 - [Appearance](#)
 - [Comments](#)
 - [Configuration](#)
 - [Domains](#)
 - [eCommerce](#)
 - [Email](#)
 - [Embedding content](#)
 - [FAQ](#)
 - [Following](#)
 - [General](#)
 - [Homepage](#)
 - [Languages](#)
 - [Links](#)
 - [Media](#)
 - [Policies & Safety](#)
 - [Shortcodes](#)
 - [Social Tools](#)
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2